IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 23RD OCTOBER 2007 / 1ST KARTHIKA 1929

Bail Appl..No. 6412 of 2007()

(CRIME NO.389 OF 2007 OF CHANGARAMKULAM POLICE STATION)

PETITIONER/ACCUSED:

RAJU P.V., S/O. LATE MANU,
AGED 25 YEARS, VADAKKEPURAKKAL HOUSE,
NANNAMUKKU SOUTH, MALAPPURAM DISTRICT.

BY ADV. SRI.SANTHEEP ANKARATH

RESPONDENT: COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, REPRESENTING SUB INSPECTOR OF POLICE, CHANGARAMKULAM POLICE STATION.

BY PUBLIC PROSECUTOR SRI. S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 23/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

R.BASANT, J

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B.A.No. 6412 of 2007

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Dated this the 23rd day of October, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations, inter alia, under Section 3(1)(x) of the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act . In view of the jurisdictional bar under Sec.18 of Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act anticipatory bail cannot obviously be granted to the petitioner. The learned counsel for the petitioner then submits that there may be a direction to the learned Magistrate to consider the application for regular bail on merits in accordance with law and expeditiously. The petitioner apprehends that if the petitioner appears before the learned Magistrate and seeks regular bail his application for regular bail may not considered on merits as the offence is triable exclusively by the court of sessions. In these circumstances the petitioner has rushed to this Court with a prayer that appropriate directions may be issued to ensure that the petitioner's application for bail is considered on merits in accordance with law and expeditiously.

2. No special and specific directions appear to be necessary. This Court time and again has reiterated that the mere fact that the

offence is triable by a Court of Session(Special Court) under Sec.14 of Act will not justify the abdication of powers by the Magistrate under Section 437 Cr.P.C. The position has been reiterated in **Ali v. State of Kerala** [2000(2) KLT 280], **Shanu v. State of Kerala** [200(3) KLT 452], **Krishnakumar v. State of Kerala** [2005(1) KLD (Cri.42)] and **P.P.Kader v. State of Kerala** [2005(1) KLD (Cri.250). I have no reason to assume that the learned Magistrate would not consider the petitioner 's application for bail on merits, in accordance with law and expeditiously.

3. This application is, in these circumstances dismissed but with the observation that the learned Magistrate must consider the application for bail to be filed by the petitioner on his surrender before the learned Magistrate on merits, in accordance with law and expeditiously – on the date of surrender itself . The petitioner shall be at liberty to give notice to the prosecutor in advance before he surrenders.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE